UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-CV-60399-ALTONAGA/TURNOFF

FILED by JG D.C.
APR 30 2007
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

SPIRIT AIRLINES, INC.,

Plaintiff,

v.

24/7 REAL MEDIA, INC., et al

Defendants.

DEFENDANTS HOTWIRE, INC., SMARTER LIVING, INC. AND TRIPADVISOR LLC'S ANSWER TO COMPLAINT FOR INTERPLEADER

Defendants Hotwire, Inc. ("Hotwire"), Smarter Living, Inc. ("Smarter Living"), and TripAdvisor LLC ("TripAdvisor") (collectively, Hotwire, Smarter Living and TripAdvisor are "Defendants"), by and through undersigned counsel, hereby jointly, unless otherwise noted, answer each corresponding numbered paragraph of the Complaint for Interpleader filed by Plaintiff Spirit Airlines, Inc. ("Plaintiff" and/or "Spirit Air"), and raises its affirmative defenses.

ANSWER

Defendants deny each and every allegation not specifically admitted herein and state as to each correspondingly numbered paragraph of the Complaint as follows:

PARTIES

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Complaint and, therefore, deny same.

2. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Complaint and, therefore, deny same.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Complaint and, therefore, deny same.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Complaint and, therefore, deny same.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Complaint and, therefore, deny same.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Complaint and, therefore, deny same.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Complaint and, therefore, deny same.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Complaint and, therefore, deny same.

9. Admitted.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 of the Complaint and, therefore, deny same.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Complaint and, therefore, deny same.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Complaint and, therefore, deny same.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13 of the Complaint and, therefore, deny same.

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 of the Complaint and, therefore, deny same.

15. Admitted.

16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16 of the Complaint and, therefore, deny same.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17 of the Complaint and, therefore, deny same.

18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 18 of the Complaint and, therefore, deny same.

19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19 of the Complaint and, therefore, deny same.

20. Admitted.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 21 of the Complaint and, therefore, deny same.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 21 of the Complaint and, therefore, deny same.

JURISDICTION AND VENUE

23. Defendants admit that Plaintiff has purported to bring an action for rule interpleader under Rule 22 of the Federal Rules of Civil Procedure and for statutory interpleader under the Federal Interpleader Act, 28. U.S.C. §1335.

24. Defendants admit that Plaintiff has purported to bring an action in which the amount in dispute exceeds the sum of $500.00 but otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 24 of the Complaint and, therefore, deny the remaining allegations of Paragraph 24.

25. Defendants admit that Plaintiff has purported to bring an action in which the amount in dispute exceeds the sum of $75,000.00 but otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25 of the Complaint and, therefore, deny the remaining allegations of Paragraph 25.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26 of the Complaint and, therefore, deny same.

FACTS

A. Agreement Between Eisner And Spirit Airlines

27. Defendants admit that Plaintiff attached Exhibit A to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 27 of the Complaint and, therefore, deny same.

28. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 28 of the Complaint and, therefore, deny same.

29. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 29 of the Complaint and, therefore, deny same.

30. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 30 of the Complaint and, therefore, deny same.

31. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 31 of the Complaint and, therefore, deny same.

32. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 32 of the Complaint and, therefore, deny same.

33. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 33 of the Complaint and, therefore, deny same.

34. Defendants admit that Exhibit A speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 34 of the Complaint and, therefore, deny same.

35. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 35 of the Complaint and, therefore, deny same.

36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 36 of the Complaint and, therefore, deny same.

B. Communications Spirit Airlines Received From Carrollton Bank And Other Defendants

37. Defendants admit that Plaintiff attached Exhibit B to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 37 of the Complaint and, therefore, deny same.

38. Defendants admit that Plaintiff attached Exhibit C to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as

to the truth of the remaining allegations set forth in Paragraph 38 of the Complaint and, therefore, deny same.

39. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 39 of the Complaint and, therefore, deny same.

40. Defendants admit that Plaintiff attached Exhibit D to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 40 of the Complaint and, therefore, deny same.

41. Defendants admit that Exhibit D speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 41 of the Complaint and, therefore, deny same.

42. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 of the Complaint and, therefore, deny same.

43. Defendants admit that Plaintiff attached Exhibit E to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 43 of the Complaint and, therefore, deny same.

44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 44 of the Complaint and, therefore, deny same.

45. Defendants admit that Plaintiff attached Exhibit F to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 45 of the Complaint and, therefore, deny same.

46. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 46 of the Complaint and, therefore, deny same.

47. Defendants admit that Plaintiff attached Exhibit G to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 47 of the Complaint and, therefore, deny same.

48. Defendants admit that Exhibit G speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 48 of the Complaint and, therefore, deny same.

49. Defendants admit that Plaintiff attached Exhibit H to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 49 of the Complaint and, therefore, deny same.

50. Admitted.

51. Admitted.

52. Defendants admit that Plaintiff attached Exhibit J to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 52 of the Complaint and, therefore, deny same.

53. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 53 of the Complaint and, therefore, deny same.

54. Defendants admit that Plaintiff attached Exhibit J to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as

to the truth of the remaining allegations set forth in Paragraph 54 of the Complaint and, therefore, deny same.

55. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 55 of the Complaint and, therefore, deny same.

56. Defendants admit that Plaintiff attached Exhibit K to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 56 of the Complaint and, therefore, deny same.

57. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 57 of the Complaint and, therefore, deny same.

58. Defendants admit that Plaintiff attached Exhibit L to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 58 of the Complaint and, therefore, deny same.

59. Defendants admit that Plaintiff attached Exhibit M to its Complaint, a document which speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 59 of the Complaint and, therefore, deny same.

60. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 60 and, therefore, deny same.

61. Defendants admit that Exhibit M speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 61 of the Complaint and, therefore, deny same.

62. Defendants admit that Exhibit M speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 62 of the Complaint and, therefore, deny same.

63. Defendants admit that Exhibit L speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 63 of the Complaint and, therefore, deny same.

C. Deposit of Funds

64. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 64 and, therefore, deny same.

65. Plaintiff's admission calls for no response, and, therefore, Defendants deny same.

66. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 66 and, therefore, deny same.

67. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 67 and, therefore, deny same.

68. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 68 and, therefore, deny same.

69. Plaintiff's proffer calls for no response, and, therefore, Defendants deny same.

COUNT I

Interpleader Under 28 U.S.C. §1135 and Rule 22 of the Federal Rules of Civil Procedure

70. Defendants reallege and incorporate their responses to Paragraphs 1 through 69 of the Complaint as though set forth fully herein.

71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 71 and, therefore, deny same.

72. Plaintiff's admission calls for no response, and, therefore, Defendants deny same.

73. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 73 and, therefore, deny same.

74. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 74 and, therefore, deny same.

75. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 75 and, therefore, deny same.

76. Plaintiff's proffer calls for no response, and, therefore, Defendants deny same.

77. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 77 and, therefore, deny same.

78. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 78 and, therefore, deny same.

79. Denied.

80. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 80 and, therefore, deny same.

In response to the unnumbered "Wherefore" paragraph following Paragraph 80 of Plaintiff's Complaint, Defendants do not oppose Plaintiff's request that the Court determine through interpleader the competing or potentially competing claims of Defendants and all other persons named in the Complaint to the Eisner Funds, extinguishing with finality these claims and restraining all parties named as defendants in this action from instituting any other proceeding against Plaintiff in any other forum. Defendants deny that Plaintiff, on deposit of the Eisner Funds with the Court, should be discharged of liability in this action or that it is entitled to its reasonable attorneys' fees and costs associated with filing this interpleader action.

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AFFIRMATIVE DEFENSES

As and for its affirmative defenses, Defendants state as follows:

First Affirmative Defense

Plaintiff is not entitled to recovery of its reasonable attorney's fees and costs.

Second Affirmative Defense

The mere deposit of the Eisner Funds into the Court's registry should not alone relieve Plaintiff of any liability in this action.

Third Affirmative Defense

Defendants reserve the right to assert additional defenses or claims, which may become known during the course of discovery.

WHEREFORE, Defendants Hotwire, Inc., Smarter Living, Inc., and TripAdvisor LLC respectfully requests that this Court: (a) determine through interpleader that portion of the Eisner Funds which are fairly due to them; (b) extinguish with finality the claims to the Eisner Funds of all parties joined as defendants in this action; (c) restrain all parties joined as defendants from instituting an action against Plaintiff to recover the Eisner Funds in any other federal or state court; and (d) grant Defendants such other and further relief as the Court deems just and proper.

Dated: This 30th day of April, 2007.

Respectfully submitted,

STEVEN J. LACHTERMAN, P.A.
848 Brickell Avenue, Suite 750
Miami, Florida 33131
Telephone: 305-377-3071
Facsimile: 305-377-3097
E-mail: steven@lachterman.com

By: ______________________
Steven J. Lachterman
Florida Bar No.: 655570

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2007 I filed a hard copy with the Clerk of Court (electronic copy will be filed upon obtaining CM/ECF User Login). I have emailed a copy of the foregoing to the below named counsel except as otherwise noted:

Anthony J. Carriuolo, Esq.
Berger Singerman
350 E. Las Olas Blvd., Suite 1000
Fort Lauderdale, FL 33301
acarriuolo@bergersingerman.com

Connie A. Lahn, Esq.
Lara O. Glaesman, Esq.
Fafinski Mark & Johnson, P.A.
775 Prairie Center Dr., Suite 400
Eden Prairie, MN 55344
lara.glaesman@fmjlaw.com
connie.lahn@fmjlaw.com

SENT VIA U.S. MAIL

STEVEN J. LACHTERMAN